

## European Union

### “Compass-Datenbank v. Austria”

**Treaty on the Functioning of the European Union, Art. 102; Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the Legal Protection of Databases, Art. 7 – *Compass-Datenbank GmbH v. Republik Österreich***

**Decision of the Court of Justice (Third Chamber)  
12 July 2012 – Case No. C-138/11**

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The activity of a public authority consisting in the storing, in a database, of data which undertakings are obliged to report on the basis of statutory obligations, in permitting interested persons to search for that data and/or in providing them with print-outs thereof does not constitute an economic activity, and that public authority is not, therefore, to be regarded, in the course of that activity, as an undertaking, within the meaning of Article 102 TFEU. The fact that those searches and/or that provision of print-outs are carried out in consideration for remuneration provided for by law and not determined, directly or indirectly, by the entity concerned, is not such as to alter the legal classification of that activity. In addition, when such a public authority prohibits any other use of the data thus collected and made available to the public, by relying upon the *sui generis* protection granted to it as maker of the database pursuant to Article 7 of Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, or upon any other intellectual property right, it also does not exercise an economic activity and is not therefore to be regarded, in the course of that activity, as an undertaking, within the meaning of Article 102 TFEU.

Available at <http://curia.europa.eu>.

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Original Headnotes. For a discussion of this case, see Lundqvist, “Turning Government Data Into Gold”: The Interface between EU Competition Law and the Public Sector Information Directive – With Some Comments on the “*Compass* Case”, at IIC doi:10.1007/s40319-012-0007-0.

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